

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #1	CCRB Case #: 201902734	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 03/22/2019 10:20 PM	Location of Incident: 34th Avenue and 24th Street	Precinct: 114	18 Mo. SOL 9/22/2020	EO SOL 5/9/2021	
Date/Time CV Reported Fri, 03/22/2019 10:31 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 03/29/2019 11:14 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Caleb Rauscher	16751	957990	PBQN SU
2. LT Robert Dandrea	00000	940045	PBQN SU

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Melchor Alban	08328	939851	PBQN SU

Officer(s)	Allegation	Investigator Recommendation
A.LT Robert Dandrea	Abuse: Lieutenant Robert Dandrea stopped § 87(2)(b)	
B.POM Caleb Rauscher	Abuse: Police Officer Caleb Rauscher threatened to arrest § 87(2)(b)	

Case Summary

On March 22, 2019, § 87(2)(b) called the IAB Command Center and filed this complaint. On March 29, 2019, the case was received at the CCRB.

On March 22, 2019, at approximately 10:20 p.m., Lieutenant Robert Dandrea and Police Officers Caleb Rauscher and Melchor Alban from the Patrol Borough Queens North Specialized Units (PBQN S/U) stopped § 87(2)(b) at the corner of 34th Avenue and 24th Street in Queens (**Allegations A: Abuse of Authority, § 87(2)(g)**). PO Rauscher threatened to arrest § 87(2)(b) (**Allegation B: Abuse of Authority, § 87(2)(g)**).

No arrests or summonses resulted from this incident.

There is no video evidence in this case.

Findings and Recommendations

Allegation (A) Abuse of Authority: Lieutenant Robert Dandrea stopped § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Caleb Rauscher threatened to arrest § 87(2)(b)

It is undisputed that Lt. Dandrea, PO Rauscher, and PO Alban approached § 87(2)(b) while he was sitting in his vehicle, and ordered him to produce his driver's license and registration. § 87(2)(b) refused to comply with the officers' orders, at which point PO Rauscher told him that he could be arrested.

§ 87(2)(b) (Board Review 01) said that he was sitting in his legally parked car at the corner of 34th Avenue and 24th Street in Queens. § 87(2)(b) vehicle engine and headlights were turned off and the vehicle's tinted windows were fully closed. § 87(2)(b) acknowledged having previously been stopped by officers for window tints. An unmarked SUV with turret lights pulled up next to § 87(2)(b) PO Rauscher, PO Alban, and Lt. Dandrea, exited and approached § 87(2)(b) driver's and front passenger's sides, respectively. § 87(2)(b) turned on his vehicle and lowered his driver's side window so he could speak with the officers. § 87(2)(b) (Board Review 02) denied that his keys were in the vehicle's ignition at the time the officers approached.

PO Rauscher informed § 87(2)(b) that he was being stopped for window tints and ordered § 87(2)(b) to produce his driver's license and registration. § 87(2)(b) responded that his vehicle was not in operation and parked, and thus refused to comply with PO Rauscher's order. PO Rauscher insisted that traffic rules applied and ordered § 87(2)(b) to produce his driver's license and registration. § 87(2)(b) refused and said he felt unsafe giving the officers his identification. PO Rauscher told § 87(2)(b) that he was being difficult and that he could be arrested for not complying with officers' orders.

§ 87(2)(b) called 911, provided his name and date of birth, and reported that the officers were harassing him. Lt. Dandrea told § 87(2)(b) that the officers were patrolling the neighborhood due to a spike in violent crimes. He apologized to § 87(2)(b) about the interaction and the officers left.

According to the 911 communication audio, § 87(2)(b) informed the 911 operator that his vehicle was not running at the time the officers approached (Board Review 03)

Lt. Dandrea (Board Review 04), PO Rauscher (Board Review 05), and PO Alban (Board Review 06), consistently testified that § 87(2)(b) vehicle engine was running, and that the windows were darkly tinted to the point that they could not see inside the vehicle. Lt. Dandrea and PO Alban also stated that § 87(2)(b) headlights were on. The officers solely approached § 87(2)(b) due to his excessive tints, and intended to issue him a summons.

PO Rauscher told § 87(2)(b) after he refused four requests, that his failure to produce his driver's license could potentially result in him being removed to the 114th Precinct stationhouse so the officers could verify his identity. PO Rauscher added that he was required to verify § 87(2)(b) identity before he could issue him a summons for the window tints.

Lt. Dandrea said § 87(2)(b) argument with the officers and his subsequent call to 911 led him to conclude that § 87(2)(b) genuinely thought that the officers were harassing him,

even though the officers had explained to him the reason for the vehicle stop, and thus decided to give § 87(2)(b) a break for the window tints.

No person shall operate on any public highway, road, or street, any motor vehicle which the windshield, side and rear windows are composed of, covered by, or treated with any material which has a light transmittance of less than 70%. NYS Vehicle and Traffic Law, Title 3 Article 9, § 375.12-a (b) (2) (Board Review 07).

A person in the driver's seat of a vehicle with the engine on and the keys in the ignition can be found to be operating a motor vehicle, without the need for proof that the person ever put the car in motion. People v. Garcia, 61 Misc. 3d 14 (2018) (Board Review 08).

According to the NYPD Patrol Guide 209-09 While issuing an individual a summons, an officer must establish the identity of that individual. In case an officer has doubts regarding the identity of the violator, an officer should remove the individual to the command to investigate his or her identity (Board Review 09).

An interaction constitutes a stop when a reasonable person believes, under the circumstances, that the officer's conduct is a significant limitation on his or her freedom of movement. The inquiry of reasonableness involves a consideration of all the facts and a weighing of the individual significance, including, whether the individual is prevented from leaving, how many verbal commands are given, what the content and tone of the commands, how many officers are involved, and where the encounter takes place. People v. Bora 83 NY 2d 531 (1994) (Board Review 10).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 12).
- Lt. Dandrea has been a member of service for 13 years and has been a subject in five CCRB complaints and nine allegations, none of which were substantiated, § 87(2)(g)
- PO Rauscher has been a member of service for four years and has been a subject in five CCRB complaints and nine allegations, none of which were substantiated, § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
 - As of December 16, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint. (Board Review 13).
 - According to the Office of Court Administration (OCA), § 87(2)(b) as no history of convictions in New York City (Board Review 14).
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Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date